IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 19TH JULY 2006 / 28TH ASHADHA,1928

Bail Appl..No. 4040 of 2006

APPLICANT

BYJU.P.G., S/O.P.M.GANGADHARAN,
`CHANDRAKANTHAM', VIVEKANANDA COLONY,
KUNNATHURMEDU, PALAKKAD.

BY ADV. SRI.VENKATAKRISHNAN (SR.)
SRI.S.ANANTHAKRISHNAN
SRI.N.K.SUBRAMANIAN

RESPONDENTS:

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1. SUB INSPECTOR OF POLICE,
VADAKARA POLICE STATION, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. MRS.SITHARA PARAMBATH,
D/O.P.NARAYANAN, `ANUGRAHA', PUTHUR,
NEAR 110 K.V. SUB STATION, BADAGARA, CALICUT DT.

BY PUBLIC PROSECUTOR P.M. HABEEB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/07/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 4040/2006

DATED THIS THE 19TH DAY OF JULY, 2006

O R D E R

The petitioner apprehends arrest in connection with the crime registered against himself and his wife, the second respondent, which originated from a fued between them as well as other members of the family. The petitioner is working in United States of America. He is expected to arrive within a few days. Because of the influence that the second respondent and her family members exert allegedly on the police as well as on the other burocratic persons, the counsel submit that in order to somehow force the petitioner to settle the matter between the parties, the said influence may be used against the petitioner. Hence the prayer for an order under Section 438 Cr.P.C.

2. The Public Prosecutor submitted that the police so far had not registered any crime involving the petitioner in Vadakara police Station or to the knowledge

of the prosecution, in any other station.

3. Section 438 Cr.P.C. could be restored to only when the person is accused of a non bailable offence, and he reasonably apprehends the arrest in that case, and then the Court can pass an order under that Section. In such circumstances, when the prosecution submits that there is no case registered, I find that there is no reason to accept the apprehension expressed by the petitioner, at this stage.

4. However, I make it clear that if the petitioner is required to answer any petition or complaint that had been filed by any one, including his wife, the second respondent, the police officer shall issue notice to the petitioner, under Section 160 Cr.P.C. And in such event, the petitioner shall appear before the investigating officer, and answer the query.

The application is dismissed as above.

Hand over the order.

J.M.JAMES
JUDGE

mrcs